

# **NOTICE**

## **FORM D NOTICE FILINGS REQUIREMENTS**

### **Purpose of Notice:**

To advise you of the effect to Form D filings in Tennessee [for issuers offering or selling securities in Tennessee in reliance on the limited offering exemption (Reg. D 505) or the private placement offering exemption (Reg. D 506)] resulting from changes made to Form D filings for the private and limited offering exemptions with the Securities and Exchange Commission ("SEC").

### **Background**

On February 6, 2008, the SEC mandated the electronic filing of Form D at the federal level and made revisions to the content of the Form. (See Securities Act Release No. 33-8891 [2/6/2008] available at <http://www.sec.gov/rules/final/2008/33-8891.pdf> .) The newly revised Form D may be filed electronically with the SEC on a voluntary basis through March 15, 2009. Beginning March 16, 2009, electronic filing is mandatory for all Form Ds filed with the SEC.

### **What to File in Tennessee**

Tenn. Comp. R. & Regs. TN Dep't of Commerce and Ins., ch. 0780-4-2-.08(c) and 0780-4-2-.12(1) include the following filing requirements for all offerings made pursuant to the limited offering exemption for the Reg. D 505 exemption to be found at T.C.A. § 48-2-103(b)(4) and the covered securities offering exemption for the Reg. D 506 exemption to be found at T.C.A. § 48-2-102(8)(F)(iv) and § 48-2-125(b):

#### **Regulation D (505)**

1. A copy of Form D - as filed in paper form or electronically with the SEC through March 15, 2009, manually signed by a person authorized by the issuer;  
Use of the Temporary Form D (17 CFR 239.500T) is also allowed through March 15, 2009, manually signed by a person authorized by the issuer;  
Beginning March 16, 2009 a printed copy of the electronically filed Form D filed with the SEC, manually signed by a person authorized by the issuer;
2. One copy of all written information furnished to offerees;
3. A Form U-2 Uniform Consent to Service of Process;
4. If the issuer is a corporation, a Form U-2A Uniform Form of Corporate Resolution;
5. A non-refundable filing fee in the amount of \$300; and
6. A statement noting the date of the first sale, if any of such security, in Tennessee;

#### **Regulation D (506)**

1. A copy of Form D - as filed in paper form or electronically with the SEC through March 15, 2009, manually signed by a person authorized by the issuer;

Use of the Temporary Form D (17 CFR 239.500T) is also allowed through March 15, 2009, manually signed by a person authorized by the issuer;

Beginning March 16, 2009 a printed copy of the electronically filed Form D filed with the SEC, manually signed by a person authorized by the issuer;

2. A Form U-2 Uniform Consent to Service of Process;
3. A non-refundable filing fee in the amount of \$500.

### **When to File**

#### **Regulation D (505)**

All Form D filings with the Tennessee Securities Division shall be made no later than fifteen (15) days after the earlier of the first payment of consideration or the delivery of a signed subscription agreement by an investor in Tennessee which results from an offer being made in reliance upon this exemption.

#### **Regulation D (506)**

The issuer shall file the required documents with the commissioner, no later than 15 days after the first sale of such covered security in Tennessee.

### **When to File an Amendment**

Any filing in connection with these exemptions shall be amended by filing with the Division such information and changes as may be necessary to correct any material misstatement or omission in the filing. Any written offering material required by Rule 0780-4-2-.08(c) that was not prepared at the time of the initial filing, or which materially differs from the written offering material included in the filing shall be delivered or mailed to the Division concurrently with its first use in Tennessee.

### **Where to File**

All filings submitted by mail, courier or walk in, to the Division should be addressed or delivered to:

Tennessee Securities Division  
Attn: Securities Registration Section  
Davy Crockett Tower, 6<sup>th</sup> Floor – Suite 680  
500 James Robertson Parkway  
Nashville, TN 37243

Any questions about the positions set forth in or the intent of this Notice should be directed to the Tennessee Securities Division, Davy Crockett Tower, 6<sup>th</sup> Floor – Suite 680, 500 James Robertson Parkway, Nashville, Tennessee, 37243, and/or telephone number (615) 741-2947.